

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Larry Bernard Long,
Plaintiff,
v.
Charles L. Ryan, et al.,
Defendants.

No. CV-15-1265-PHX-DJH
ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) issued by United States Magistrate Judge Deborah M. Fine on February 25, 2016. (Doc. 38). In the R&R, Judge Fine recommends dismissing Defendant May because he has not been served in accordance with Fed.R.Civ.P. 4(m) and LRCiv 16.2(b)(2)(B)(ii). As the R&R states, service was attempted on Defendant May but was returned unexecuted on August 31, 2015, indicating he was no longer employed by the Arizona Department of Corrections. (Doc. 38 at 1-2). No forwarding address was provided. Judge Fine then granted Plaintiff’s motion to compel Defendant May’s last known address under seal and multiple extensions of time to complete service. Those efforts, however, were unsuccessful and Defendant May was never served.

Judge Fine advised the parties that they had fourteen days to file objections and that the failure to file timely objections "will be considered a waiver of a party’s right to de novo appellate consideration of the issues.” (Doc. 38 at 3-4) (citing *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)). The parties have not filed

1 objections and the time to do so has expired. Absent any objections, the Court is not
2 required to review the findings and recommendations in the R&R. *See Thomas v. Arn*,
3 474 U.S. 140, 149 (1989) (The relevant provision of the Federal Magistrates Act, 28
4 U.S.C. § 636(b)(1)(C), “does not on its face require any review at all . . . of any issue that
5 is not the subject of an objection.”); *Reyna-Tapia*, 328 F.3d at 1121 (same); Fed.R.Civ.P.
6 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s
7 disposition that has been properly objected to.”).

8 Nonetheless, the Court has reviewed the R&R and agrees with its findings and
9 recommendations. The Court will, therefore, accept the R&R and dismiss Defendant
10 May from this action. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court may accept,
11 reject, or modify, in whole or in part, the findings or recommendations made by the
12 magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).


13 Accordingly,

14 **IT IS ORDERED** that Magistrate Judge Fine's R&R (Doc. 38) is **accepted** and
15 **adopted** as the order of this Court.

16 **IT IS FURTHER ORDERED** that Defendant May is **dismissed** from this action.

17 **Dated** this 29th day of March, 2016.

18
19
20
21
22
23
24
25
26
27
28


Honorable Diane J. Humetewa
United States District Judge